

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY JUNE 30, 2004

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE MAY 25, 2004

AMENDED IN SENATE MAY 11, 2004

AMENDED IN SENATE APRIL 12, 2004

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**SENATE BILL**

**No. 1492**

**Introduced by Senator Dunn**

February 19, 2004

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An act to add Chapter 6.5 (commencing with Section 56.32) to Part 2.6 of Division 1 of the Civil Code, relating to confidential information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Dunn. Confidential information.

Existing law prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding any patient of the health care provider or enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. Existing law makes a violation of this provision, and related provisions relating to the handling of confidential medical information, subject to administrative, civil, and criminal penalties.

This bill would prohibit a health care business, as defined, from transmitting individually identifiable health information, as defined, to a site outside the United States, unless specified notice and authorization requirements are satisfied. The bill would also require a person or entity that has contracted or subcontracted with a health care

business to receive individually identifiable health information to disclose to the business if any of the information will *be* transferred outside the United States. *The bill would further require specified persons and entities to make those disclosures to their patients, upon request.* The bill would prohibit a health care business from discriminating against an individual or denying an individual health care service because the individual has not consented to the transfer of individually identifiable information outside the United States. This bill would create a state-mandated local program by imposing the above-described penalties on persons who violate this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6.5 (commencing with Section 56.32)  
2 is added to Part 2.6 of Division 1 of the Civil Code, to read:

3  
4 CHAPTER 6.5. DISCLOSURE OF MEDICAL INFORMATION BY  
5 HEALTH CARE BUSINESSES  
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7 56.32. (a) For purposes of this chapter, a “health care  
8 business” means any person or entity, whether established to make  
9 ~~or~~ a profit or not, that collects or retains individually identifiable  
10 health information about individuals in relation to medical care,  
11 that is described below:

12 (1) ~~An entity~~ A health care facility or health care plan licensed  
13 pursuant to Division 2 (commencing with Section 1200) of the  
14 Health and Safety Code, other than an entity described in  
15 paragraph (2) ~~or (3).~~

16 (2) ~~An entity licensed pursuant to the Knox-Keene Health Care~~  
17 ~~Service Plan Act of 1975 (Chapter 2.2 (commencing with Section~~  
18 ~~1340) of Division 2 of the Health and Safety Code.~~

~~(3) An entity licensed pursuant to subdivision (f) or subdivision (g) or Section 1375.4 of the Health and Safety Code.~~

~~(4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code who is engaged in the business of providing health care as a sole proprietor.~~

~~(2) An entity offering health insurance, as defined in subdivision (b) of Section 106 of the Insurance Code.~~

(b) For purposes of this chapter, “individually identifiable health information” has the same meaning as the term “medical information” in subdivision (g) of Section 56.05.

56.33. (a) A person or entity that has contracted or subcontracted with a health care business, *physician and surgeon, or entity identified pursuant to subdivision (f) or (g) of Section 1375.4 of the Health and Safety Code*, to receive individually identifiable health information shall disclose to the health care business if any of the information will be transferred to a site outside the United States.

(b) No health care business, or person or entity that has contracted or subcontracted with a health care business, shall transmit individually identifiable health information to a site outside the United States unless all of the following apply:

(1) The health care business discloses to the individual at the time of enrollment and reenrollment, or in the case of a health facility; upon admission or as soon as practical after admission, that his or her individually identifiable health information may be transmitted to a site outside the United States.

(2) The health care business obtains a consent acknowledgment pursuant to Section 56.34 from the individual whose health information is identifiable that his or her individually identifiable health information may be transmitted to a site outside the United States.

(3) The consent of the individual has been granted or renewed on at least an annual basis.

(4) The individual may revoke his or her consent in writing to the health care business at any time.

(5) The obligations imposed on a health care business by this section are undertaken by the business itself and are not delegated to a physician and surgeon employed by, or contracted with, the health care business.

1 56.33.5. A health care business, physician and surgeon, or  
2 entity identified pursuant to subdivision (f) or (g) of Section 1375.4  
3 of the Health and Safety Code, shall disclose to the patient, upon  
4 the patient's request, if individually identifiable health information  
5 is transmitted to a site outside of the United States.

6 56.34. Except for a request for health care services initiated by  
7 an individual seeking diagnosis or treatment outside of the United  
8 States, a health care business shall utilize a form, statement, or  
9 writing to obtain consent to transmit individually identifiable  
10 health information to a site outside the United States. The form,  
11 statement, or writing shall meet ~~both~~ of the following criteria:

12 (a) ~~Dated~~ It shall be a separate document, and it shall not be  
13 attached to any other document.

14 (b) It shall be dated and signed by the individual whose health  
15 care information is identifiable.

16 ~~(b) Clearly~~

17 (c) It shall clearly and conspicuously ~~discloses~~ disclose all of  
18 the following:

19 (1) By signing, the individual is consenting to the transmission  
20 of his or her individually identifiable health information to a site  
21 outside the United States.

22 (2) The consent of the individual must be renewed on at least  
23 an annual basis.

24 (3) The individual may revoke his or her consent at any time.

25 (4) The procedure by which consent may be revoked.

26 ~~56.35.~~

27 56.34.5. A health care business shall not discriminate against  
28 an individual or deny an individual health care service because the  
29 individual has not provided his or her consent pursuant to Sections  
30 56.33 and 56.34.

31 SEC. 2. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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